

the prior written approval of the Director; or

(B) The ownership of which is prohibited by, or not in accordance with, title I of the Act, the implementing regulations, the trust instrument, or with other applicable statutes and regulations;

(iii) Solicit advice from any interested party or any representative of that party with respect to such trust, which solicitation is prohibited by title I of the Act, the implementing regulations, or the trust instrument; or

(iv) Fail to file any document required by the implementing regulations or the trust instrument.

(2) The independent trustee and any other designated fiduciary, in the exercise of their authority and discretion to manage and control the assets of the trust, shall not consult or notify any interested party or that party's representative.

(3) The independent trustee shall not acquire by purchase, grant, gift, exercise of option, or otherwise, without the prior written approval of the Director, securities, cash, or other property from any interested party or any representative of an interested party.

(4) *Certificate of Compliance.* An independent trustee and any other designated fiduciary shall file, with the Director by May 15th following any calendar year during which the trust was in existence, a properly executed Certificate of Compliance in the form prescribed in appendix B to this part. In addition, the independent trustee and such fiduciary shall maintain and make available for inspection by the Office of Government Ethics, as it may from time to time direct, the trust's books of account and other records and copies of the trust's tax returns for each taxable year of the trust.

(e) *Responsibilities of the interested parties and their representatives.* (1) Interested parties to a qualified trust and their representatives shall not knowingly and willfully, or negligently:

(i) Solicit or receive any information about the trust that may not be disclosed under title I of the Act, the implementing regulations or the trust instrument; or

(ii) Fail to file any document required by this subpart or the trust instrument.

(2) The interested parties and their representatives shall not take any action to obtain, and shall take reasonable action to avoid receiving, information with respect to the holdings and the sources of income of the trust, including a copy of any trust tax return filed by the independent trustee, or any information relating to that return, except for the reports and information specified in paragraphs (b) and (c) of this section.

(3) In the case of any qualified trust, the interested party shall, within thirty days of transferring an asset, other than cash, to a previously established qualified trust, file a report with the Director, which identifies each asset, categorized as to value in accordance with § 2634.301(d).

(4) Any portfolio asset transferred to the trust by an interested party shall be free of any restriction with respect to its transfer or sale, except as fully described in schedules attached to the trust instrument, and as approved by the Director.

(5) During the term of the trust, the interested parties shall not pledge, mortgage, or otherwise encumber their interests in the property held by the trust.

(f) *Amendment of the trust.* The independent trustee and the interested parties may amend the terms of a qualified trust only with the prior written approval of the Director and upon a showing of necessity and appropriateness.

§ 2634.409 Pre-existing trusts.

An interested party may place a pre-existing irrevocable trust into a qualified trust, which may then be certified by the Office of Government Ethics. This arrangement should be considered in the case of a pre-existing trust whose terms do not permit amendments that are necessary to satisfy the rules of this subpart. All of the relevant parties (including the employee, any other interested parties, the trustee of the pre-existing trust, and all of the other parties and beneficiaries of the pre-existing trust) will be required pursuant to section 102(f)(7) of the Act

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to enter into an umbrella trust agreement. The umbrella trust agreement will specify that the pre-existing trust will be administered in accordance with the provisions of this subpart. A parent or guardian may execute the umbrella trust agreement on behalf of a required participant who is a minor child. The Office of Government Ethics has prepared model umbrella trust agreements that the employee can use in this circumstance. The umbrella trust agreement will be certified as a qualified trust if all of the requirements of this subpart are fulfilled under conditions where required confidentiality with respect to the trust can be assured.

§ 2634.410 Dissolution.

Within thirty days of dissolution of a qualified trust, the interested party shall file a report of the dissolution with the Director and a list of assets of the trust at the time of the dissolution, categorized as to value in accordance with § 2634.301(d).

§ 2634.411 Reporting on financial disclosure reports.

An employee who files a public or confidential financial disclosure report shall report the trust on the financial disclosure report.

(a) *Public financial disclosure report.* If the employee files a public financial disclosure report, the employee shall report the trust as an asset, including the overall category of value of the trust. Additionally, in the case of a qualified blind trust, the employee shall disclose the category of value of income earned by the trust. In the case of a qualified diversified trust, the employee shall report the category of value of income received from the trust by the employee, the employee's spouse, or dependent child, or applied for the benefit of any of them.

(b) *Confidential financial disclosure report.* In the case of a confidential financial disclosure report, the employee shall report the trust as an asset.

§ 2634.412 Sanctions and enforcement.

Section 2634.702 sets forth civil sanctions, as provided by sections 102(f)(6)(C)(i) and (ii) of the Act and as adjusted in accordance with the Fed-

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eral Civil Penalties Inflation Adjustment Act, which apply to any interested party, independent trustee, or other trust fiduciary who violates his obligations under the Act, its implementing regulations, or the trust instrument. Subpart E of this part delineates the procedure which must be followed with respect to the revocation of trust certificates and trustee approvals.

§ 2634.413 Public access.

(a) *Documents subject to public disclosure requirements.* The following qualified trust documents filed by a public filer, nominee, or candidate are subject to the public disclosure requirements of § 2634.603:

(1) The executed trust instrument and any amendments (other than those provisions which relate to the testamentary disposition of the trust assets), and a list of the assets which were transferred to the trust, categorized as to the value of each asset;

(2) The identity of each additional asset (other than cash) transferred to a qualified trust by an interested party during the life of the trust, categorized as to the value of each asset;

(3) The report of the dissolution of the trust and a list of the assets of the trust at the time of the dissolution, categorized as to the value of each asset;

(4) In the case of a blind trust, the lists provided by the independent trustee of assets placed in the trust by an interested party which have been sold; and

(5) The Certificates of Independence and Compliance.

(b) *Documents exempt from public disclosure requirements.* The following documents are exempt from the public disclosure requirements of § 2634.603 and also shall not be disclosed to any interested party:

(1) Any document (and the information contained therein) filed under the requirements of § 2634.408(a) and (c); and

(2) Any document (and the information contained therein) inspected under the requirements of § 2634.408(d)(4) (other than a Certificate of Compliance).